

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF CALIFORNIA

3 THIS DOCUMENT APPLIES TO  
4 PLAINTIFF(S): MARTHA L.  
5 CUNNINGHAM, INDIVIDUALLY AND  
6 AS SUCCESSOR-IN-INTEREST OF THE  
7 ESTATE OF NORMAN R.  
8 CUNNINGHAM, DECEASED

9 Plaintiffs

10 v.

11 ☐ AMYLIN PHARMACEUTICALS, LLC,  
12 ☐ ELI LILLY AND COMPANY,  
13 ☒ MERCK SHARP & DOHME CORP.,  
14 ☐ NOVO NORDISK INC.,

15 (Check all the above that apply)

16 Defendants

Pertains To Civil Action No.:

In Re: Incretin-Based Therapies  
Products Liability Litigation

**MDL NO. 2452**

**SHORT FORM COMPLAINT  
FOR DAMAGES**

Case No.: 13md2452 AJB(MDD)

17 **SHORT FORM COMPLAINT FOR DAMAGES**

18 COMES NOW the Plaintiff(s) named herein, and for Complaint against the  
19 Defendants named herein, incorporates and fully adopts the Master Form Complaint  
20 (the "Master Complaint") in MDL No. 2452 by reference. Plaintiff(s) further shows  
21 the Court as follows:

22 **JURISDICTION AND VENUE**

23 1. Jurisdiction in this Complaint is based on:

24 ☒ Diversity of Citizenship

25 ☐ Other (As set forth below, the basis of any additional ground for  
26 jurisdiction must be pleaded in sufficient detail as required by the  
27 applicable Federal Rules of Civil Procedure):

28 2. District Court and Division in which you might have otherwise filed

absent the direct filing order entered by this Court: United States District  
Court – Southern District of California.

3. Plaintiff(s) further adopts the allegations contained in the following paragraphs of the Jurisdiction and Venue section of the Master Complaint:

☒ Paragraph 10;

☒ Paragraph 11;

☒ Paragraph 12;

☒ Paragraph 13;

☒ Paragraph 14;

☒ Paragraph 15; and/or

☐ Other allegations as to jurisdiction and venue (Plead in sufficient detail in numbered paragraphs (numbered to begin with 3(a)) as required by the applicable Federal Rules of Civil Procedure): \_\_\_\_\_

PLAINTIFF/INJURED PARTY INFORMATION

4. Injured/Deceased Party's Name: Norman R. Cunningham  
(the "Injured Party").

5. Any injury (or injuries) suffered by the Injured Party in addition to those injuries related to the Injured Party's Pancreatic Cancer, which is alleged to have been caused by the drug(s) ingested as set forth below (put "None" if applicable): None.

6. Injured Party's spouse or other party making loss of consortium claim:  
Martha L. Cunningham.

7. Other Plaintiff(s) and capacity, if Injured Party is deceased or otherwise incapacitated (i.e., administrator, executor, guardian, representative, conservator, successor in interest): Martha L. Cunningham, Successor-In-Interest.

8. City(ies) and State(s) of residence of Injured Party at time of ingestion

1 of the Drug(s): Reader, WV.

2 9. City and State of residence of Injured Party at time of pancreatic  
3 cancer diagnosis (if different from above): Same as above.

4 10. City and State of residence of Injured Party at time of diagnosis of  
5 other Injury(ies) alleged in Paragraph 5 (if different from above): Not  
6 applicable.

7 11. If applicable, City and State of current residence of Injured Party (if  
8 different from above): Not applicable.

9 12. If applicable, City and State of residence of Injured Party at time of  
10 death (if different from above): Same as above.

11 13. If applicable, City and State of current residence of each Plaintiff,  
12 including any Consortium and or other Plaintiff(s) (i.e., administrator, executor,  
13 guardian, representative, conservator, successor in interest): Reader, WV  
14 \_\_\_\_\_.

15 14. Check box(es) of product(s) (the "Drugs") for which you are making  
16 claims in this Complaint:

17 ☐ Byetta. Dates of use: \_\_\_\_\_.

18 ☒ Januvia. Dates of use: 6/2008-10/2009; 11/2010-12/2011.

19 ☒ Janumet. Dates of use: 10/2009-11/2010.

20 ☐ Victoza. Dates of use: \_\_\_\_\_.

21 15. Date of pancreatic cancer diagnosis: Approx. 11/2011.

22 16. If applicable, date of other injuries alleged in Paragraph 5: Not  
23 applicable.

24 17. If applicable, date of death: 1/20/2012.

25 DEFENDANTS NAMED HEREIN

26 (Check Defendants against whom Complaint is made)

27 ☐ Amylin Pharmaceuticals, LLC

28 ☐ Eli Lilly and Company

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JURY DEMAND

Plaintiff(s) hereby ☒ demands ☐ **does not** demand a trial by jury on all issues so triable.

Dated: January 14, 2014

RESPECTFULLY SUBMITTED,

By: /s/ Michael Goetz  
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